USDC SDNY

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	X	DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3/24/2022
UNITED STATES OF AMERICA,	: : :	
-V-	:	20-cr-110 (LJL)
LAWRENCE RAY,	:	` ,
Defendant.	: :	<u>ORDER</u>
	: X	

LEWIS J. LIMAN, United States District Judge:

The defense has submitted a five-page list of objections to exhibits to be offered into evidence during the testimony of Agent Flatley. Dkt. No. 465-2. At the conclusion of trial today, the Court ruled on a number of the exhibits. The Court also indicated that it was prepared to hear individualized objections to the exhibits at the conclusion of the trial day tomorrow. The Court documents the rulings that it issued today. To streamline the proceedings, the Court also issues the following preliminary indicative rulings on a number of exhibits subject to the defense asking for individualized argument on any of the exhibits. Assuming no further elaboration of the defense objections, the rulings will be finalized at the end of the argument on evidentiary objections tomorrow. Each of these rulings is made subject to the Government establishing foundation by testimony from Agent Flatley that the exhibit in question was extracted from media that the evidence otherwise has established or will establish was in the defendant's possession, either in his residence or in his storage room, at the time of the search. Where an exhibit is not discussed, the Court will hear argument tomorrow.

At the conclusion of trial today, the Court heard argument on the defense motions to exclude on Federal Rule of Evidence 403 grounds certain Government exhibits extracted from media found in defendant's residence at the time it was searched and overruled those objections. For the reasons stated on the record, the following exhibits (each of which is an article relating in some way to mental health or mind control or psychology or senses of the self and memory and/or lying) will be received after Agent Flatley authenticates them by testifying that they were extracted from media that other evidence has established or will establish was found in defendant's residence: GX 1701, GX 1702, GX 1703, GX 1704, GX 1810, GX1811, GX 1812, GX 1813, GX 1814, GX 1815, GX 1816, GX 1817, GX 2003–2018, GX 2021–2023, and GX 2025–2029. These rulings are final, subject to a foundation being laid by Agent Flatley.

The Court also ruled on the objections to the identification of the user on GX 1406. The exhibit will be received without the user during the testimony of Agent Flatley and will be received with the user during the testimony of Agent Maguire after the user is identified. These rulings also are final.

The following are preliminary indicative rulings.

The following exhibits which are videotapes or audio tapes in which either the defendant is heard or seen (sometimes making threats), which contain pictures of his alleged victims, and which were in his possession will be received subject to a proper foundation and the defense objection on grounds of relevance and that the evidence is cumulative is overruled: GX 1712, GX 1830, GX 1901, GX 2103, GX 2105, GX 2109. The following exhibits which on their face are photographs or videos of the work being done in Pinehurst, North Carolina, will be received and the objection on grounds of relevance and that the evidence is cumulative is overruled: GX 1833, GX 1835–1839, GX 1841, GX 1843, GX 1846-1876, GX 2120, GX 2121, GX 2126, GX 2128–GX2132. The only objections to GX 1877–1883, GX 1904, GX 2001, GX 2002, GX 2024, GX 2122, GX 2123, GX 2134–2137, GX 2141–2143, GX 2145–2182, are on foundation grounds and so those exhibits will be received subject to Agent Flatley laying the proper foundation. The objection to GX 2124 and GX 2125 is overruled. The photographs are plainly relevant and not cumulative.

The defense objects to GX 2191 and GX 2192 on hearsay grounds. The Government should be prepared to address whether it is offering the exhibits for the truth of the matter asserted (i.e., that the tasks were performed) or for what is stated (that the individuals involved had the tasks assigned).

Finally, the defense objects to GX 1100–1106 on hearsay grounds. The objection is overruled. Most of the content of these documents constitutes a statement of the declarant's then-existing state of mind. Fed R. Evid. 803(3). Some of the statements are plainly not for the truth—they are "false" confessions. The statements also are admissible under Federal Rule of Evidence 801(d)(2)(e).

The defense also appears to make a blanket objection to the following exhibits, each of which is a photograph extracted from the media located in defendant's residence on grounds of relevance and that they are cumulative: GX1706-1708, GX 1801, GX 1803, GX 1805, GX 1806, GX 1809, GX 1821-1823, GX 1825, GX 1826, GX 1827, GX 2110. The Court is prepared to hear from the Government on the relevance of the photographs as a general matter (without addressing each one specifically) subject, however, to the defense having and articulating tomorrow a particularized objection to any specific photograph. It appears the following set of exhibits also can be addressed as group: GX 1828–1829; GX 1831; GX 1905; GX 2020; GX 2101–2102, and GX 2104; GX 2016; GX 2110; GX 2114.

SO ORDERED.

Dated: March 24, 2022

New York, New York

LEWIS J. LIMAN United States District Judge

<sup>&</sup>lt;sup>1</sup> The objection to foundation is overruled on the assumption that Agent Flatley will testify that the exhibits were recovered from media that it is or will be separately established was in defendant's residence.